

EXHIBIT D

REPORTER'S RECORD
VOLUME OF VOLUMES
TRIAL COURT CAUSE NO. DC-12-14350

LINDA BATISTE) IN THE DISTRICT COURT
)
)
vs.) DALLAS COUNTY, TEXAS
)
)
JOHN ROBERT MCNABB, M.D.,)
JOHNSON & JOHNSON, AND)
ETHICON, INC.) 95TH JUDICIAL DISTRICT

TRIAL ON THE MERITS

20 On the 21st day of March, 2014, the following
21 proceedings came on to be held in the above-titled and
22 numbered cause before the Honorable, Judge Ken Molberg
23 Presiding, held in Dallas, Dallas County, Texas.

Proceedings reported by computerized stenotype machine.

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Official Court Reporter, 95th District Court
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1 what you want to look at. They're -- there's some --

2 Q. You want -- you want to get a little more
3 focused you want to get a. Little deeper so you have to
4 do a greater magnification; is that fair enough?

5 A. There was -- there was a range yes, sir.

6 Q. All right. But in any event, so you had you
7 had the -- the pristine at 300 to 350, whatever it was
8 and this is at 400 but this -- this is the SEM that came
9 back with regard to the explant?

10 A. It is.

11 Q. And as, I believe you've indicated and I think
12 we can see right down here, here is a little bit of the
13 tissue itself, correct?

14 A. Yes, sir.

15 Q. And you understand that the -- well, I'll get
16 to that in a minute.

17 What we're looking at here is the,
18 what you say, is a cracking of the Polypropylene?

19 A. Yes, sir.

20 Q. And every time that you have talked about this
21 in all the articles that you've talked about it, you have
22 referred to this as surface cracking, haven't you?

23 A. I have.

24 Q. And when we're looking at this at 400 times
25 magnification, what is, for example, the thickness of

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1 | this?

2 A. Oh, Dr. Thames measured it and found it to be I
3 think about 2.6 or 2.7 microns.

4 Q. Did you measure it?

5 A. No, we did not.

6 Q. You did not?

7 A. But we can get an estimate from looking at the
8 scale there, sir.

9 Q. Okay. Would you say that --

10 A. I don't --

11 Q. -- Dr. Thames' measurement is probably pretty
12 accurate?

13 A. I would agree with his analysis on that.

14 Q. 2.6 or 2.7?

15 A. Yes, sir.

Q. A human hair is how many microns?

17 A. Sixty.

18 Q. Well, if one had human hair, that is.

19 (Laughing)

20 A. Okay.

Q. Then what we're really talking about here is
and my math is not too good, but a 20 -- 25th of this.
This would be about 1/25th the width of a human hair,
this cracking in here?

25 A. Correct.

1 Q. Now --

2 A. That --

3 Q. The whole -- the whole fiber is how thick?

4 A. Approximately 170-microns.

5 Q. So what we're talking about in terms of
6 cracking is?

7 A. About 2 percent.

8 Q. 2 percent?

9 A. About.

10 Q. That's why I went to law school. I can't do
11 that math. And I appreciate it. So we're really talking
12 about surface cracking, aren't we?

13 And did you ever in any of
14 your explants find any cracking that actually went
15 into the fiber to any depth at all?

16 A. I -- I did see a couple of times but it was
17 rare. This is the vast -- the surface is the vast
18 majority.

19 Q. All right. Well, would you be surprised if in
20 your depositions you said you didn't find any deep
21 cracks?

22 A. May have meant I didn't find any -- if you
23 asked me about this graph, I'd say there isn't any here.

24 Q. All right. So we have the SEM cracked scanning
25 that was done in Minnesota. Now, I guess let's go just

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1 Q. All right. And do you think that they were
2 somehow being misleading when they were creating this
3 this document?

4 A. No. But when I --

5 Q. Now, were they reporting the data that they
6 wanted to report?

7 A. No. Significant degradation does not mean no
8 degradation. It means not significant degradation.

9 Q. And is there a difference between sig- --
10 significant or clinical sig- -- or degradation that would
11 have clinical significance and degradation that would
12 have no clinical significance? You can have degradation
13 that would have no clinical significance, can't you?

14 A. You know, yes, that should be possible.

15 Q. And have you come forward with any evidence
16 that says that there was any degradation of PROLENE
17 sutures that was clinically significant?

18 A. PROLENE sutures? We --

19 Q. That's what we're talking about here in the
20 study.

21 A. We have just seen the degradation, you know,
22 that -- we -- we've looked at by other mechanisms and the
23 pictures and so on, but if you want to say --

24 Q. We're not talking about, quote, degradation
25 now. We're talking about clinically significant